



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 23, 1998

Ms. Donna Garcia Davidson
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR98-0228

Dear Ms. Davidson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112105.

The Office of the Governor received a request for information pertaining to The Texas Compact, an amendment to H.R. 629 offered by Representative Lloyd Doggett, and the decommissioning of the Maine Yankee nuclear power plant, as well as for a specific letter from Governor King to Governors Bush and Dean. You state that you are providing to the requestor some of the responsive materials. You claim, however, that the remaining requested information is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code.¹ You have submitted a representative sample of the requested information for our review.²

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney

¹As you have not identified any statute or other law that would make the information at issue confidential under section 552.101 of the Government Code, we do not consider its applicability to the information submitted.

²In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 (1990) at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* We find that a portion of one of the documents reveals an attorney's legal advice or opinion and, therefore, may be withheld under section 552.107.

Section 552.111 of the Government Code excepts from required public disclosure an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency. This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.* We find that most of the information submitted consists of opinion, advice, and recommendation that is excepted from disclosure based on section 552.111.

We have marked the documents in accordance with this ruling. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/ulg

Ref: ID# 112105

Enclosures: Submitted documents

cc: Ms. Erin Rogers
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(w/o enclosures)